REMARKS

Favorable reconsideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-20 are currently pending. No claims have been amended herewith.

In the outstanding Office Action, Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,212,160 to Barbieri et al. (hereinafter "the '160 patent") in view of U.S. Patent No. 5,818,603 to Motoyama (hereinafter "the '603 patent").

Claim 18 is directed to a computer-implemented method for causing at least one of a device, an appliance, an application, and an application unit to control a protocol used for data communication to a remote receiver, the method comprising: (1) providing plural communication protocols capable of transferring data at an application layer; (2) selecting a first protocol of the plural communication protocols to transfer data to the remote receiver from the at least one of a device, an appliance, an application, and an application unit; (3) selecting a second protocol of the plural communication protocols to transfer data to the remote receiver from the at least one of a device, an appliance, an application, and an application unit; (4) collecting events at the at least one of a device, an appliance, an application, and an application unit; (5) performing a first attempt to transfer the collected events to the remote receiver from the at least one of a device, an appliance, an application, and an application unit using the first protocol; and (6) performing a second attempt to transfer the collected events to the remote receiver from the at least one of a device, an appliance, an application, and an application unit using the second protocol after the first attempt, automatically without human intervention.

Regarding the rejection of Claim 18 under 35 U.S.C. § 103, the Office Action asserts that the '160 patent discloses everything in Claim 18 with the exception of "collection and

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transferring of collected events at the at least one of a device, an appliance, an application, and an application unit,"[1] and relies on the '603 patent to remedy those deficiencies.

The '160 patent is directed to a method of automatically selecting a protocol to match the protocol of a communications network. In particular, the '160 patent discloses that a device initially attempts to communicate by using a preferred one of the communication protocols, and attempts to communicate by using another one of the protocols if the initial attempt fails. Moreover, the '160 patent discloses that, even if a successful attempt establishes a first communication channel, the device may again attempt to communicate using the successful protocol to establish a second communications channel. However, Applicant notes that the '160 patent discloses protocols such as TCP and IPX/SPX. Applicant respectfully submits that these are not application-layer protocols. Accordingly, Applicant respectfully submits that the '160 patent fails to disclose the step of providing plural communication protocols capable of transferring data at an application layer, as recited in Claim 18. Rather, the protocols disclosed in the '160 patent are not at the application layer. Moreover, as admitted in the Office Action, the '160 patent fails to disclose the step of collecting events at the at least one of a device, an appliance, an application, and an application unit; and performing the first and second attempts to transfer the collected events, as recited in Claim 18.

The '603 patent is directed to a method and system for controlling and communicating with machines using multiple communication formats. The '603 patent discloses that information is transmitted from a first device to a second device, and that upon receiving the information, the second device determines the communication protocol utilized by the first device by looking up an identifier contained within the information to determine a format of a header of the transmission. Further, the '603 patent discloses that the second

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[1] See page 3 of the outstanding Office Action.

device then parses the header of the transmission used in the format of the header which was determined, and determines the communication protocol using information in the header which was parsed using the format of the header. However, Applicant respectfully submits that the '603 patent fails to remedy the deficiencies of the '160 patent, regarding the claimed providing step. In particular, the '603 patent fails to disclose provided plural communication protocols capable of transferring data at an application layer, performing a first attempt to transfer collected events using the first protocol, and performing a second attempt to transfer the collected events using the second protocol after the first attempt, automatically without human intervention, as required by Claim 18.

Thus, no matter how the teachings of the '160 and '603 patents are combined, the combination does not teach or suggest the step of providing plural communication protocols capable of transferring data at an application layer, as recited in Claim 18. Accordingly, Applicant respectfully submits that a *prima facie* case of obviousness has not been established and that the rejection of Claim 18 should be withdrawn.

Independent Claims 1, 8, and 19 recite limitations analogous to the limitations recited in Claim 18. However, Applicant notes that Claim 8 recites a fifth computer code device configured to attempt to transfer collected events to a remote receiver from at least one of a device, an appliance, an application, and an application unit using a first format; and a sixth computer code device configured to transfer the collected events to the remote receiver from the at least one of a device, an appliance, an application, and an application unit using a second format after attempting to transfer the collected events to the remote receiver from the at least one of a device, an appliance, an application, and an application unit using the first format, automatically without human intervention. Further, Claim 8 recites a first computer code device configured to provide plural communications formats capable of providing data transfer. Applicant respectfully submits that the combined teachings of the '603 and the '160

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patents fail to disclose the first computer code device, the fifth computer code device, and the sixth computer code device recited in Claim 8. In particular, Applicant notes that the '160 patent is directed to various transport level protocols, not plural communication formats, as recited in Claim 8. Accordingly, for the reasons stated above, Applicant respectfully submits that a *prima facie* case of obviousness has not been established and that the rejections of Claims 1, 8, 19 (and all associated dependent claims) should be withdrawn.

Thus, it is respectfully submitted that independent Claims 1, 8, 18, and 19 (and all associated dependent claims) patentably define over any proper combination of the '603 and '160 patents.

Consequently, in view of the present amendment and in light of the above discussion, the outstanding grounds for rejection are believed to have been overcome. The application as amended herewith is believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.
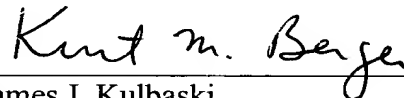
Respectfully submitted,

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